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Election 2010 New York: Andrew Cuomo – Does he have a Mandate? Nationally: Lost Faith in the Message of Hope?

While much of the nation was endorsing Republicans over Democrats and we saw the rise of the Tea Party movement, New York sang a slightly different tune than many other states on Election Day.

The heated Andrew Cuomo-Carl Paladino gubernatorial contest resulted in Cuomo decisively winning the election with 61 percent of the votes cast for governor. While many fault the Republican candidate himself – particularly his inappropriate comments and overall negativity – for his poor showing at the polls, it nonetheless seems that the incoming Governor Cuomo has a sound mandate to lead and address the massive fiscal deficits facing the New York.

In two other statewide races, Comptroller and Attorney General, the Democratic candidates also managed to win in what were highly contested races. Republicans in the state did manage to turnover a handful of Assembly and Senate seats. In the Senate, it is likely that the GOP will regain control, but that is less a surprise, given the Democrat's tenuous one-seat majority in that house. Assembly Speaker Sheldon Silver lost seven Democratic colleagues, but he still retains a very healthy and substantial majority.

The looming state budget deficit figures to be the major issue for the new governor in January, and from its resolution, however it is attained, all other state funding matters will flow. Education and Medicaid are the two biggest items in the state budget, and are the places where significant savings could be attained. Governor David Paterson also has said that a special session of the Legislature is needed before the end of the year to address a \$315 million deficit in the current 2010-11 fiscal year and Silver has said he agrees with such a scenario. Both, however, point out that there is uncertainty still about the outcomes in several state Senate elections. Because of that, Governor Paterson withdrew a call for the Legislature to return for a special session on Nov. 15.

Unlike the past two years, starting in July 2011, the federal government's fiscal stimulus relief – in the form of education monies and additional Medicaid matching funds – expires. There is virtually no likelihood that a Republican-controlled House of Representatives will approve another stimulus package. This means that \$1.4 billion in extra federal assistance that New York had used to address budget deficits will not be available. Unless there is a willingness to raise additional revenue, cuts will inevitably have to be made.

Health care providers are already struggling after several years of budget cuts targeting hospitals and nursing homes in particular. In the current fiscal year, Governor Paterson achieved major health care spending cuts totaling \$779 million. These cuts included wide-ranging reductions of \$234 million impacting long-term

care and chronic care programs and services. There were also significant cuts to other programs providing aging and HIV services. Overall, health care cuts over the past four state fiscal years are now approaching \$3 billion. That's a staggering amount for health care providers to absorb.

The following is a summary of Andrew Cuomo's campaign positions related to overall state government priorities:

- Cap state spending.
- Freeze salaries of state public employees as part of a one-year emergency financial plan.
- Reduce number of state agencies, authorities and commissions by 20 percent.
- Cap property taxes.
- Create a new state employee pension tier – increase employee contributions and address the practice of pension “spiking/padding” through overtime usage.
- Review “unfunded mandates” by the state that result in increased costs to local governments, and propose sunset bill requiring re-evaluation of mandates in two years.
- Change state fiscal year to July 1.

Cuomo's Medicaid platform:

- Full takeover by the state of county Medicaid costs.
- Transfer of reimbursement rate-setting authority from Legislature to the Department of Health.
- More-careful management of individuals with complex medical needs.
- Develop a more efficient way of covering “dual eligibles.”
- Set up pharmacy benefit management agency to buy medication in bulk.

Cuomo's campaign platform looked pretty heavily in the direction of Medicaid, saying that the state spends twice the national average on the program while providing poorly, or only at the national average of key health indicators. The inference is that New York's not getting its money's worth. Cuomo has already been quoted as saying that New York's Medicaid spending is “unsustainable”.

For advocates for the poor and those who rely heavily on state resources for operations, such as Medicaid providers, next year will prove to be a very tough ride.

Nationally

Chuck Schumer and Kirsten Gillibrand easily won elections to return them to the U.S. Senate. However, when it came to races for the House, Republicans gained at least four seats in Congress from New York (absentee ballots are being counted in one upstate seat). The message the electorate sends in New York is a mixed one; statewide Democratic candidates easily won, but in selected areas, moderate Democrats – known as Blue Dogs – lost their races. In some cases, Democratic members of Congress in New York who lost their races had voted against health care reform, raising some question, at least, about the conventional wisdom that the overarching election issue was “Obamacare,” – the Patient Protection and Affordable Care Act.

Nationally, with the November 2010 elections over, it's clear that the electorate has done an about-face in its perspective on who should set the tone and decide public policy in Washington. Two years ago, Obama fever had struck the nation, and many newly elected Democrats were able to ride into office on the optimism driven by Barack Obama's message of Hope. How quickly the mood of the nation changed.

Has Obama's message of “Hope” been replaced by the Tea Party?

As was widely projected, the House flipped from Democratic to Republican control, with the Democrats losing 60 seats nationwide. Republicans will command 239 seats and the Democrats 185 seats, giving the GOP a healthy majority and control of the agenda in the House.

Republicans will surely take advantage of their newfound control of the House to introduce legislation seeking to repeal the Patient Protection and Affordable Care Act, in whole or in part, as well as attempt to rob the bill of funding through the appropriations process. This will merely be symbolic, as there is no chance for passage of such legislation in the Democratic-controlled Senate or approval of any such legislation by President Obama. But that does not mean they won't try, or attempt to insert some language that strikes down what they see as the most unpopu-

lar components of the bill through other means, such as attaching it to other critical bills the Democrats will want passed. The two biggest advantages the Republicans will have is the “power of the purse,” as most spending bills must originate in the House and, through control of the various Congressional committees, the power to hold investigations and committee hearings, subpoena officials and otherwise stymie policy initiatives of the President.

The U.S. Senate remains in the hands of the Democratic Party, with 51 seats clearly held by Democrats and 46 seats held by Republicans, with three seats still too close to call. Only two years ago, the Democrats had a “super majority” of the magical 60 seats, which allowed the Democrats to break Republican filibuster attempts by invoking a parliamentary procedure known as cloture. Because neither party will have 60 votes and the Democrats will remain in control of the Senate with only a small majority, very little will happen in the Senate without some measure of bipartisanship.

While the Republicans and Tea Party candidates made their opposition to the Affordable Care Act a major focus on their campaigns, significant changes to the program are not likely while the Democrats continue to control the Senate and the White House. The biggest challenge to the Affordable Care Act will lie in attempts to chip away at some provisions of the bill and in efforts to defund components of the law that require new federal resources.

The most significant change we might see as a result of the November elections is in the appropriations process, where critical funding for programs such as Ryan White, Housing Opportunities for Persons with AIDS (HOPWA), Centers for Disease Control HIV Prevention, the National Institute for Health and others will now be influenced by Republican control of the House.

The Republican’s “Pledge to America” has called for a return to 2008 spending levels on non-defense discretionary items. Why 2008? That was the last Bush Administration budget.

The consequences of such a policy would be disastrous for programs such as the AIDS Drug Assistance Program, which would lose more than \$100 million. There are already some 4,100 individuals on waiting lists. This would dramatically increase if the ADAP program were to return to spending levels from 2008.

Already, national HIV advocates are gearing up for a very challenging legislative session in 2011 in the nation’s capitol.

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